

REMARKS

Claims 1-12 are pending in this application after this Amendment; claims 1, 8, 10, 11, and 12 being independent. Claim 12 has been added. In light of the remarks and amendments contained herein, which are supplemental to the remarks contained in Applicant's Reply After Final filed on December 10, 2002, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

Examiner Interview

Applicant wishes to thank the Examiner for the interview conducted on April 8, 2003. During the interview, the outstanding rejections with regard to claim 1 were discussed. It appears that the Examiner is taking two separate positions regarding the interpretation of "a light receiving element opposed to light emitting faces of the light emitting elements" as recited in claim 1. In one interpretation, the Examiner asserted that he was interpreting "opposed" to mean "next to". As indicated in the definition of the word "opposed" as provided by the Examiner in the Official Action mailed October 15, 2002, Webster defines this word to mean "to place opposite or against" something. It is respectfully submitted that the interpretation the Examiner is relying upon is in contradiction to the ordinary meaning of the word. Neither Webster's Dictionary nor the specification, including

the drawings, provide that the light receiving element is next to the light emitting faces of the light emitting elements. As such, it is respectfully submitted that the Examiner has taken a definition of a term in the claim that is contrary to the ordinary meaning of the term. Thus, it is respectfully requested that the outstanding rejection be withdrawn.

The second position that the Examiner was taking during the interview was that the light emitting element depicted in Fig. 1(b) of the Toshio reference discloses at least four surfaces. The Examiner indicated that he was interpreting "the light emitting face of the light emitting element" to read on that surface that was supporting the light emitting face of the light emitting element, not the light emitting face itself. It is respectfully submitted that one of ordinary skill in the art would interpret the light emitting face to be that surface of the light emitting element that was emitting light. The light emitting face of *Toshio* as depicted in Fig. 1(b) is that surface that has a ray of light extending from the light emitting face. The surface of the light emitting element that is opposite a surface of the light receiving element (which is not the light receiving face) is not the light emitting face. As such, it is respectfully submitted that the Examiner's interpretation of the claims as recited, which the Examiner asserts is a broad interpretation of the claims, goes

beyond what one of ordinary skill in the art would interpret the claim to mean.

The Examiner further asserts that it is possible that light that is emitted from the light emitting element may be received at light receiving element 11. The Examiner is reminded that, although it may be possible or probable that a particular structure performs a particular function, this is not sufficient to show anticipation under 35 U.S.C. § 102. *Continental Can Co. USA Inc. v. Monsanto Co.*, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). Based upon the reasons set forth above, it is respectfully requested that the Examiner withdraw the outstanding rejections.

By this Amendment, Applicant has added new independent claim 12 for the Examiner's consideration.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg.52,327) at the telephone number of the undersigned below.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17;
particularly, extension of time fees.

Respectfully submitted,

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TCB/CMV/jdm
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Attachments

(Rev. 12/19/01)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

New claim 12 has been added.